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**P.U.C. DOCKET NO. 38230  
SOAH DOCKET NO. 473-10-4398**

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**APPLICATION OF LONE STAR  
TRANSMISSION, LLC FOR A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR THE  
CENTRAL A TO CENTRAL C TO  
SAM SWITCH/NAVARRO  
PROPOSED CREZ TRANSMISSION  
LINE**

§  
§ **PUBLIC UTILITY COMMISSION**  
§  
§  
§ **OF TEXAS**  
§  
§  
§


**INTERVENOR 10 STAR RANCH'S RESPONSES TO LONE STAR  
TRANSMISSION, LLC'S SECOND REQUEST FOR INFORMATION**

Intervenor Windswept Place South, Ltd., owner of 10 Star Ranch in Erath County, Texas, ("10 Star Ranch"), files this response to Lone Star Transmission, LLC's Second Request for Information ("RFI"). This response may be treated as being under oath.

Respectfully submitted,

THOMPSON & KNIGHT LLP

By:

  
James E. Cousar  
State Bar No. 04898700

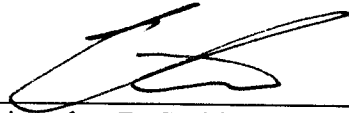
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ATTORNEYS FOR INTERVENOR  
WINDSWEPT PLACE SOUTH, LTD./  
10 STAR RANCH

### **CERTIFICATE OF SERVICE**

I certify that pursuant to Order No. 1 in this docket, this document was served on the party propounding these requests for information, and filed with the P.U.C. this 8th day of September 2010, pursuant to Subchapter E of the Commission's procedural rules.

  
\_\_\_\_\_  
Christopher D. Smith

10 STAR RANCHES RESPONSES TO LONE STAR TRANSMISSION,  
LLC'S  
SECOND SET OF RFIs

2-1.

(a) The number of transmission line projects Mr. McLean has participated in and the nature of his participation.

**Response:** Mr. McLean assisted Don Bosse in preparing Mr. Bosse's testimony in P.U.C. Docket No. 37448. Mr. Bosse's testimony is available from the P.U.C. interchange as document number 532 in that docket. Mr. McLean assisted in preparing a viewshed analysis showing the impact of a proposed transmission line on Enchanted Rock State Natural Area and surrounding properties.

Mr. McLean also assisted Mr. Bosse in preparing a viewshed analysis showing the impact of a proposed transmission line on property in P.U.C. Docket No. 38324. Mr. Bosse's testimony is document number 497 in that docket.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

(b) The number of transmission line projects Mr. McLean has managed.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

(c) The number of transmission line projects for which Mr. McLean has conducted an environmental analysis.

**Response:** None, other than endangered species potential habitat analysis discussed in Mr. McLean's direct testimony in this docket.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

(d) The number of transmission line projects Mr. McLean has planned.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

(e) The number of transmission line projects for which Mr. McLean has submitted, or participated in submitting, an application for regulatory approval. For each such application, please state the regulatory body in question, the project name (and docket if applicable), the specific type of approval sought, the date of the application, the date of the regulatory body's determination. Please identify and produce any final agency orders issued in connection with such projects.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

(f) The number of environmental analyses for transmission line projects that Mr. McLean has reviewed. Please identify each.

**Response:** None, other than this docket.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

(g) The number of "presence/absence surveys" for threatened and endangered species habitat Mr. McLean has performed in his career.

**Response:** As reflected on Ex. 1 to Mr. McLean's direct testimony, Mr. McLean has conducted four presence/absence surveys of endangered species.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

- (h) The number of “on-the-ground” surveys for threatened and endangered species habitat performed Mr. McLean has performed in his career.

**Response:** Please see the response to subpart (g) above.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2.2. For all transmission line projects referenced in your answer to 2-1 (a) through (g), please identify each such project by name, voltage, physical location utility, and approximate project date.

**Response:** P.U.C. Docket No. 37448 was an application by LCRA Transmission Services Corp. to amend its CCN for a proposed 345-kV CREZ transmission line from the Gillespie to Newton substations. The application was filed in 2009.

P.U.C. 38324 was an application by Oncor to amend its CCN for a proposed 345kV CREZ transmission line from the Willow Creek to Hicks substations. That docket is currently pending.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-3. Please identify all articles professional papers, and presentations Mr. McLean has authored or co-authored concerning transmission line planning, management, environmental analysis, permitting, or regulatory approval.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-4. Please identify and produce all studies of transmission line effects on endangered species habitat Mr. McLean has authored or in which he has participated.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-5. What is the acceptable time of year to perform an on-the-ground survey for golden cheek warbler and black capped vireo habitat? Please state whether surveys performed outside that time frame are likely to yield accurate results.

**Response:** On-the-ground surveys for golden-cheeked warbler and black-capped vireo habitat should ideally be conducted during each species' respective breeding season. The U.S. Fish and Wildlife Service's protocol specifies that golden-cheeked warbler surveys are to be conducted from March 15 to June 15, and that black-capped vireo surveys are to be conducted from April 10 to July 1. Surveys conducted outside of these time frames can confirm that habitat is being actively utilized. However, surveys conducted outside of the referenced time frames cannot confirm that potential habitat is not being actively utilized for nesting.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-6. Please state whether a distinction exists between "potential habitat" and actual or occupied habitat as those terms are used in Mr. McLean's testimony. If so, please explain the difference. Please state whether Mr. McLean has discovered any actual or occupied habitat in on any of the Lone Star proposed transmission line routes. If so, please indicate on a map or other drawing the location of such habitat.

**Response:** Yes, a distinction exists. Potential habitat generally includes all of the tree species composition, density, and structure preferred by the golden-cheeked warbler and the shrub and tree species composition, density, and structure preferred by the black-capped vireo. Each species may not actually occupy all of its respective potential habitat. Actual or occupied habitat is potential habitat that is actually occupied by individual golden-cheeked warblers or black-capped vireos, as confirmed by an on-the-ground survey.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2.7 Please state the process a transmission line utility must utilize to obtain necessary regulatory approvals if it proposes to construct a transmission line in territory identified as "potential habitat" or actual or occupied habitat for the golden cheeked warbler or black capped vireo.

**Response:** Based on Mr. McLean's experience as an environmental consultant, a prudent landowner or developer planning a significant construction project such as a transmission line in an area of potential habitat would begin informal consultation with the U.S. Fish and Wildlife Service (USFWS) during planning, and attempt to delineate the extent of the potential habitat. If the project would take place in the vicinity of actual habitat, the prudent landowner or developer would present all of the information that it has regarding the presence or absence of the species to USFWS. Then, if requested by USFWS, the prudent landowner or developer would prepare revised assessment of where actual habitat is located. Finally, before beginning construction, the prudent landowner or developer would seek and obtain authorization from the USFWS for its construction activities under section 7 or section 10 of the Endangered Species Act.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2.8 Please state whether the fact that potential habitat for the golden cheeked warbler or black capped vireo exists on a proposed electric transmission line route legally disqualifies that route from being constructed on that route. Please explain your answer.

**Response:** Mr. McLean's testimony is not being offered as legal opinion. Mr. McLean is not aware that the presence of potential golden-cheeked warbler habitat would disqualify a route from construction, provided proper authorizations are obtained.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean



2.9 Please state whether the fact that actual or occupied habitat for the golden checked warbler or black capped vireo exists on a proposed electric transmission line route legally disqualifies that route from being constructed on that route. Please explain your answer.

**Response:** Mr. McLean's testimony is not being offered as legal opinion. Mr. McLean is not aware that the presence of actual or occupied golden-cheeked warbler habitat would disqualify a route from construction, provided proper authorizations are obtained.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-10. Reference page 13, 1. 1-8. Please state all supporting facts and authorities for the opinions expressed concerning reliance on state and federal records and helicopter overflight, and major utilities using "the most current and reliable models."

**Response:** Mr. McLean's opinion, models such as the Loomis Model L and Diamond Model C, quickly and comprehensively identify potential golden-cheeked warbler habitat over a large geographical area. They are superior to reviewing state and federal records and helicopter overflights because the models are more conservative. Specifically, the models over-identify potential habitat compared to state and federal records, which are not always comprehensive. Thus, the use of the models reduces the probability that actual golden-cheeked warbler habitat will not be detected. In addition to the models, observation of the potential habitat areas by a wildlife biologist who is familiar with the species' needs may be required to refine the extent of potential habitat.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-11. Please identify all other links and routes that Mr. McLean analyzed other than links KK1, ST, and KK2.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-12. Please identify all areas within the study area that Mr. McLean personally inspected.

**Response:** None.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-13. Please list any route submitted by Lone Star that Mr. McLean believes does not comply with applicable legal and regulatory standards and therefore is legally ineligible for selection as the transmission line route in this case. Please fully describe the factual and legal basis for such opinion.

**Response:** While Mr. McLean assessed potential endangered species habitat on Links KK1, KK2, and ST, he did not analyze any of the routes in Lone Star's Application. Therefore, Mr. McLean has not formed an opinion on whether any routes are legally ineligible for selection.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-14. Does either model Mr. McLean discussed in his testimony (Loomis Model L or the Diamond Model C) for determining suitable habitat for the golden-cheeked warbler actually identify tree species or species diversity within stands of potentially suitable habitat?

**Response:** No, the models do not. However, the base data for the Loomis Model L relies on the 2001 National Land Cover Dataset. That dataset distinguishes between deciduous and evergreen trees, and tree canopies generally greater than 5m.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-15. Does either model Mr. McLean discussed in his testimony (Loomis Model L or the Diamond Model C) make any determinations regarding tree height, species diversity, or if there is the presence of junipers with shedding bark?

**Response:** No, the models to not. However, the base data for the Loomis Model L relies on the 2001 National Land Cover Dataset. That dataset distinguishes between deciduous and evergreen trees, and tree canopies generally greater than 5m.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-16. Is Mr. McLean aware of any peer reviewed or published studies that have assessed the accuracy of either model (Loomis Model L or the Diamond Model C) through follow-up on-the-ground habitat assessments and/or presence/absence surveys for the golden-checked warbler? If so, please provide a copy of any responsive studies.

**Response:** Mr. McLean is aware of a report authored by Professor David Diamond, which describes the Loomis Model L and Diamond Model C, and the process he used for calibrating the Diamond models. Additionally, Loomis has produced a paper discussing its methodologies for producing models of potential habitat. Both papers were previously produced to Lone Star on the DVD that accompanied 10 Star Ranch's previous RFI responses.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean

2-17. Do either of [the models] Mr. McLean discussed in his testimony (Loomis Model L or the Diamond Model C) offer any reliability in determining suitable habitat for the black-capped vireo?

**Response:** No.

**Preparer:** Christopher Smith

**Sponsoring Witness:** Jesse McLean